

LOCAL RULES OF PRACTICE LAGRANGE SUPERIOR AND CIRCUIT COURTS

Updated March 26, 2015

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LR44-TR 00-1 Scope of Rules

Except as otherwise provided, these rules govern the procedure and practice in all cases, including criminal, civil, and juvenile, filed or pending in the LaGrange Superior and Circuit Courts.

LR44-TR 3.1-2 Withdrawal of Appearance by Counsel

- (A) Written motion and compliance with T.R. 3.1. Permission to withdraw an appearance by counsel shall be requested by written motion. Permission to withdraw shall be given only after the petitioning attorney has complied with the requirements of T.R. 3.1 (E), including a certification of the last known address and telephone number of the party, subject to the confidentiality requirements of T.R. 3.1.
- (B) Motions filed prior to the appearance of other counsel: Permission to withdraw shall be given only after the petitioning attorney has given his/her client at least 10 days written notice of the intent to withdraw. A copy of the written notice shall be attached to the petition to withdraw. The written notice to the client shall explain the possible effects of failure to secure new counsel and shall set forth any hearing or trial dates and any pleading, discovery or other pre-trial deadlines.
- (C) Motions filed subsequent to the appearance of other counsel: Motions to withdraw an appearance filed subsequent to the proper appearance of other counsel shall constitute a waiver of the requirements of paragraph (B) of this rule.
- (D) Criminal cases; withdrawal due to defendant's failure to fulfill an obligation with respect to counsel's fee: The requirements of paragraphs (A), (B) and (C) of this local rule are in addition to the requirements and provisions of I.C. 35-36-8-2 in criminal cases. Absent exceptional circumstances, no attorney in a criminal case should expect permission to withdraw the attorney's appearance based on his or her client's failure to fulfill an obligation with respect to the attorney's fee unless the motion to withdraw is filed at least 90 days prior to any second or subsequent trial setting.

LR44-TR 5-3**Service and filing of pleadings; court office mailboxes; submission of proposed orders**

- (A) Service at mail slot in offices of the Clerk: Any attorney choosing to use the mail slots made available in the offices of the Clerk shall be considered to have designated that attorney's mail slot as a suitable place for delivery and service of pleadings pursuant to T.R. 5(B) (d).
- (B) Submission of proposed orders: All motions, petitions, and requests for action by the Court shall be accompanied by an original proposed order, sufficient copies for each party and person required to receive notice, and an extra copy for the Court.

LR44-TR 53.5-4**Continuances**

- (A) Written notices: A Motion for Continuance, unless made on record during the hearing of the cause or otherwise specifically authorized by the Court, shall be in writing and signed. Such motion shall comply in all respects with T.R.53.5 of the Indiana rules of Trial Procedure.
- (B) Scheduling conflicts: A Motion for Continuance based on a scheduling conflict with another cause shall specify the Court, the case name, the cause number, the date the hearings or trials in both cases was set, and the type of conflicting hearing or trial.
- (C) Duty to confer: Before requesting a continuance, the moving party shall confer with counsel for all other parties and with any parties appearing pro se, to determine any objections and to ascertain dates for rescheduling when all parties are available. Such objections and alternative dates shall be reported in the motion for continuance.

LR44-TR 69-5**Procedure for Proceeding Supplemental**

Unless the participation of the Judge or Magistrate in the hearing is specifically requested by the judgment holder or judgment debtor, the hearing on a Proceeding Supplemental will be conducted informally by the parties, without the presence of the Judge or Magistrate. Proceeding Supplemental hearing with the Judge will be conducted in the courtroom, but unless record is requested by any party, the Proceeding Supplemental hearing will not be on record. The hearings will be scheduled by the Court. Counsel shall inform court staff of the result of the Proceeding Supplemental.

LR44-TR 00-6**Termination of Counsel's Representation in Dissolution of Marriage Actions**

- (A) Unless otherwise indicated by counsel, upon the entry of a final decree of dissolution of marriage, legal separation or paternity, or and order of permanent modification of any custody, visitation and/or child support order, the representative capacity of all attorneys appearing on behalf of any party shall be deemed terminated upon:
 - 1. An order of withdrawal granted in accordance with the Local Rules of Practice of the LaGrange Superior and Circuit Courts; or
 - 2. The expiration of time within which an appeal of the Order may be preserved or perfected pursuant to the Indiana Rules of Trial Procedures and/or the Indiana Rules of Appellate Procedure; or
 - 3. The conclusion of any appeal of the Order commenced pursuant to Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate Procedure.
- (B) Counsel for initiating and responding parties shall be required to file a new appearance in any post dissolution action.
- (C) The service of any post dissolution pleadings upon any party not represented by counsel pursuant to this local rule shall be made upon that person pursuant to the Indiana Rules of Trial Procedure.
- (D) Any copy served upon original counsel will be deemed to be a matter of professional courtesy only.

LR44-TR 00-7**Bond Schedule and Conditions of Posting Bond in Criminal Cases**

- (A) Bond schedule: Unless otherwise ordered by the Court, individuals arrested and taken into custody will be allowed to post bond prior to their initial hearing in accordance with the attached bond schedule and subject to the conditions and time frames set forth in the schedule.
- (B) No contact and no violent contact as a condition of bond on crimes of violence: Unless otherwise ordered by the Court, it shall be a condition of pretrial release and bond for any individual arrested for a felony offense involving either violence against an individual or a threat of violence against an individual, including but not limited to domestic violence, that the person bonding be prohibited from having any contact whatsoever, directly or indirectly, with the alleged victim of the crime and that the person bonding be prohibited from possessing any firearms or deadly weapons.
- (C) Time for posting bond: Unless otherwise ordered by the Court, or reasonably required by the LaGrange County Sheriff, individuals shall be entitled to post bond as soon as practical following arrest and processing except:

1. Individuals who are under the influence of alcohol, drugs or controlled substances. In accordance with the State statutes and the policy of the LaGrange County Sheriff, any individual reasonably believed to be under any influence of alcohol, drugs or controlled substances when arrested may be detained without bond until he or she is not longer under the influence.
2. Family Violence:
Anyone arrested for an offense involving family violence (as defined in I.C. 34-6-2-34.5 to include attempting, threatening or causing physical harm to another family or household member, placing a family or household member in fear of physical harm, or causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress) shall not be allowed to post bond until the earlier of his/her initial hearing or 24 hours after arrest. The Court finds this “cooling off” period is needed because of the unique nature of family violence, which often involves high emotions between individuals who live in close physical proximity.

Bond Schedule

The following is the Standard Bond Schedule for criminal defendants. It is understood that the amounts shown are amounts for the grade of offense indicated in those instances where arrest occurs without a warrant, or where no bond is endorsed on the warrant. The judge may, in any given case, fix a higher or lower bond when issuing a warrant or at a probable cause or initial hearing.

Grade of Offense	Amount of Bond
Murder	None
Level 1 and 2 and all cases involving allegations of child molest and crimes of violence, regardless of the grade of offense.	Set upon Arrest
Level 3	\$50,000.00
Level 4	\$35,000.00
Level 5	\$10,000.00 \$20,000.00
Level 6	\$ 4,000.00
A Misdemeanor	\$ 2,000.00
B Misdemeanor	\$2,000.00
C Misdemeanor	\$2,000.00

Manufacture of Sale of Controlled Substances Set by Court

Battery, regardless of level of offense and crimes alleged to have been committed by violence or force or threat of force, to include Criminal Confinement, Intimidation and Invasion of Privacy Set by Court

Probation Violation Set by Court

Attempt to commit or aiding in the commission of an offense shall carry the same bond as the offense itself.

Unless otherwise ordered by a Judge, the minimum bond for a non-resident of Indiana, regardless of level of offense, is \$5,000.00.

(Amended effective July 1, 2014)

LR44-TR 00-8 Dress and Conduct

- (A) Lawyers and litigants shall be appropriately attired during all court appearances.
- (B) Lawyers, litigants, and spectators shall at all times speak and behave in such a manner as to respect the dignity and authority of the Courts, Judges, and all judicial personnel.
- (C) No person shall bring food or beverage into any courtroom without the prior approval of the judge of that court.
- (D) All cell phones, pagers and any other personal electronic devices shall be turned off during all court proceedings.

LR44-AR1-9 Caseload Allocation Plan

A. Criminal, Infraction and Ordinance Violation Cases

Criminal cases shall be filed pursuant to LR44-CR2.2-10. All infraction and ordinance violation cases shall be assigned to the Superior Court.

B. Probate and Related Cases

Estate, Guardianship, and Trust cases shall be assigned to the LaGrange Circuit Court. Adoption cases shall be equally divided between the LaGrange Circuit and Superior Courts.

C. Juvenile Cases

Paternity and Child in Need of Services cases shall be equally divided between the two Courts. All other juvenile cases shall be assigned to the LaGrange Circuit Court.

D. Small Claims Cases

All small claims cases shall be assigned to the LaGrange Superior Court.

E. Reciprocal Support Cases

All reciprocal support cases shall be assigned to the LaGrange Circuit Court.

F. All Other Civil Case Types

Cases other than those mentioned in the preceding paragraphs may be filed in either Circuit Court or Superior Court, at the discretion of the filing party. However, nothing in this rule shall prohibit a judge of said Court from transferring a case from that Court to the other as allowed by statute, or rule of trial procedure, or to ensure an even distribution of judicial workload between the courts of record in the county.

G. Re-filed Cases

Except when a change of venue is necessary, whenever a case is dismissed by action of the originating party, the case, if re-filed, must be assigned to the same court that received the original case.

H. Caseload Review

The Judges of the LaGrange Circuit and Superior Court shall meet during the months of July and January, of each year to review the caseloads of the Courts. They shall, at those meetings, make and transfer of cases which they deem necessary to provide for the more expeditious handling of cases in LaGrange County and to help to alleviate any disparity in the Courts' caseload.

Further, the Judges shall meet to discuss caseloads and make transfers at such other times as either Judge may deem necessary.

(As amended effective February 26, 2015)

LR44-CR2.2-10 Criminal Case Assignment

A. Initial Case Assignment.

(1) All cases arising under Indiana Code Title 9, or in the instance of cases containing multiple counts, where any of the counts arises under Indiana Code Title 9, shall be filed in the LaGrange Superior Court.

(2) All cases arising under Indiana Code 35-46-1-5 shall be filed in the LaGrange Circuit Court.

(3) Where a conflict of interest exists, or other good cause is shown, the presiding judge of either court may permit the filing of that case so as to avoid the conflict.

(4) All other criminal cases shall be filed first with the Clerk of the Court. The Clerk shall docket cases with each court by using a system of "lot" or random selection while ensuring that an equal division of the felony and misdemeanor cases exist between the Courts.

(5) In the event a cause is dismissed, it may later be re-filed in the same court.

LR44-CR2.2-11 Criminal Case Reassignment

A. Pursuant to Ind. Criminal Rule 2.2(D) and Ind. Criminal Rule 13(C), in the event a change of judge is granted, or a disqualification or recusal is entered, the case shall be reassigned as follows:

(1) Circuit Court: When it becomes necessary to assign another Judge in any felony or misdemeanor proceeding in the LaGrange Circuit Court, the case shall be reassigned to the LaGrange Superior Court.

(2) Superior Court: When it becomes necessary to assign another Judge in any felony or misdemeanor proceeding in the LaGrange Superior Court, the case shall be reassigned to the LaGrange Circuit Court.

(3) Alternative: In the event a reassignment cannot be accomplished pursuant to the rules set forth above, then the case will be reassigned in consecutive order to the following Judges: the regular Judge of the DeKalb Circuit Court; the regular Judge of the DeKalb Superior Court I; the regular Judge of the DeKalb Superior Court II; the regular Judge of the Steuben Circuit Court; the regular Judge of the Steuben Superior Court; the Steuben County Magistrate; the regular Judge of the Noble Circuit Court; the regular Judge of the Noble Superior Court Division 1; the regular Judge of the Noble Superior Court Division 2; the regular Judge of the Elkhart Circuit Court; the regular Judges of the Elkhart Superior Court Division 1 through 6; the Magistrates of Elkhart County; and, the Senior Judges eligible to serve in the LaGrange Circuit Court or the LaGrange Superior Court.

B. Pursuant to Ind. Criminal Rule 13(D), in the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge. In the event the Judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, this presiding Judge may request the Indiana Supreme Court for such appointment.

LR44-TR79-12

Special Judge Assignment in Civil Cases

In the absence of an agreement as to a particular special judge under Trial Rule 79 (D), the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list of judges or magistrates eligible under Trial Rule 79(J) from counties within the Judicial Administrative District of which LaGrange County is a member.

In cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

(Amended effective December 2, 2013)

Court reporter services shall be governed by the following rules:

A. Definitions. The following definitions shall apply under this local rule:

1. **A Court Reporter** is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
2. **Equipment** means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
3. **Work Space** means that portions of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
4. **Page** means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
5. **Recording** means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
6. **Regular hours worked** means those hours which the court is regularly scheduled to work during any given week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
7. **Gap hours worked** means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
8. **Overtime hours worked** means those hours worked in excess of forty (40) hours per work week.
9. **Work week** means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
10. **Court** means the particular court of which the court reporter performs services. Court may also mean all of the courts in LaGrange County.
11. **County indigent transcript** means a transcript that is paid for from county funds and is for the use of behalf of a litigant who has been declared indigent by a court.
12. **State indigent transcript** means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

13. **Private transcript** means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

Salaries and Per Page Fees.

1. Court Reporters shall be paid an annual salary for time spent working under the control, directions and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.
2. The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$4.00; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.
3. The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$4.00.
4. The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$4.00.
5. Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

Private Practice.

1. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:
 - a. The reasonable market rate for the use of the equipment, work space and supplies;
 - b. The method by which records are to be kept for the use of equipment, work space and supplies; and
 - c. The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.
2. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

Local Rules Relating to Miscellaneous Administrative Procedures

LR44-AR 00-14 Removal of files

No Court files may be removed from the Courthouse by any attorney or employee or agent of any attorney. The files may be signed for and examined in the Courthouse, or in the library of the Circuit Court, after having duly been authorized through the offices of the Clerk or the Courts.

LR44-FL 00-15 Local Rules Relating to Dissolution of Marriage

1. There shall be filed in each dissolution of marriage preceding a Statement of Assets and Liabilities which shall be on forms substantially similar to the attached forms.
2. In the event that the parties cannot agree on assets, values, debts and/or the proposed distribution, they shall note on the statement the areas of disagreement and each party's position.
3. The statement shall be filed at the earlier of the final pre-trial conference or fourteen (14) days before the final hearing.
4. Statements of assets and liabilities shall not be required in those cases where the parties have executed a property settlement agreement prior to the deadlines fixed in paragraph C, nor in pro-se dissolution cases where the parties have no children and have made a division of their assets.
5. In cases where the custody of minor children are involved unless otherwise approved each party shall attend and show proof of completion a parenting class before a final hearing shall be held, or a settlement agreement shall be approved

IN RE: THE MARRIAGE OF: _____
CAUSE NO: _____

Statement of Assets and Liabilities

[illegible]

Liabilities of the Parties

[illegible]

Summary

Total Value of Property:

Husband: _____

Wife: _____

Total Debts:

Husband: _____

Wife: _____

Net Value:

Husband: _____

Wife: _____

Proposed Equalization Judgment:

Husband to Wife: _____

Wife to Husband: _____

SIGNATURE(S)

PETITIONER

DATE

RESPONDENT

DATE

SO ORDERED THIS _____ day of _____, 20__.

Lisa M. Bowen-Slaven
Judge
LaGrange Superior Court

J. Scott Vanderbeck
Judge
LaGrange Circuit Court

LR44-JR 4-16**Procedure for Summoning Jurors**

- (A) In accordance with Rule 4(b) of the Indiana Jury Rules, the Courts of LaGrange County hereby select the two tier notice and summons options, which permits the Jury Administrator to send the jury qualification form and notice first, and the summons to prospective jurors at least one week before service.
- (B) The Judges of the Courts of LaGrange County hereby appoint and designate the Clerk of the LaGrange Circuit Court to act as the Jury Administrator.
- (C) The Jury Administrator shall perform the duties prescribed under the Indiana Jury Rules.
- (D) The pool of jurors is to serve as a Jury pool for the Circuit and Superior Courts in LaGrange County.
- (E) As set forth in Rule 4, not later than seven (7) days after the date of drawing the names from the master list, the Jury Administrator shall mail to each person whose name is drawn a jury qualification form and a questionnaire to be completed by each prospective juror.
- (F) Further, as set forth in Rule 4, upon order of any Court, the Jury Administrator shall summon prospective jurors for service.

LR 44-AR00-17**LaGrange County Court Drug and Alcohol
Program-Schedule of Fees**

The following fees will be assessed for participants in the Alcohol and Drug Program:

Program fee	\$350.00
Administrative fee	50.00